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BOARD OF LAND AND NATURAL RESOURCES
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
WATER, LAND, & HAWAIIAN AFFAIRS

Wednesday, February 13, 2019
11:15 AM
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 1122
RELATING TO LAND USE

House Bill 1122 proposes to require the Department of Land and Natural Resources (Department) to use cooperative resource management strategies to manage and administer the wildlife and wildlife resources of the State and offers a new description of what constitutes "cooperative resource management". Prohibits closures of game management areas, wildlife sanctuaries, and public hunting areas unless the Department includes with its decision a listing of findings based on scientific data from a period of at least 10 years that substantiates the decision for the closure and receives a positive recommendation for the closure from the Game Management Advisory Commission. **The Department opposes this bill.**

The Department is dedicated to managing, administering, and exercising control over public lands, water resources and streams, ocean waters, coastal areas, minerals, and other natural resources of the State of Hawai'i. The mission of the Department is to "enhance, protect, conserve and manage Hawai'i's unique and limited natural, cultural and historic resources held in public trust for current and future generations of the people of Hawai'i nei, and its visitors, in partnership with others from the public and private sectors." The organization oversees over 1.3 million acres of land, beaches, and coastal waters and 750 miles of coastal land.

The Department is established in the Section 26-15, Hawai'i Revised Statutes (HRS), and establishes the Board of Land Natural Resources (Board) as the governing entity. The Department must follow the Hawai'i Administrative Rules Title 13, which details the procedures carried out by the Department. As it pertains to this bill, the Board is the decision-making entity that reviews the Department's proposed closures in regularly scheduled and noticed public meetings. The Game Management Advisory Commission's (GMAC) current role is to advise the

Board on game animal management matters. This bill would make the Board subservient to decisions of the Game Management Advisory Commission, allowing the GMAC to approve or reject closures of game management areas, wildlife sanctuaries or public hunting areas, and requiring action on the part of the GMAC to close such areas.

The Department seeks to keep game management areas, wildlife sanctuaries, and public hunting areas open as much as possible – closures are very rare. However, the Department needs the flexibility to close these areas for safety, or natural resource management purposes. Various Departmental land and water areas are temporarily closed during extreme weather events, or when other unsafe conditions exist, such as landslides or wildland fires. Requiring approval by the GMAC would prevent the Department from being able to quickly establish public safety closures. The requirement of providing scientific data justification that spans over 10 years is arbitrary, could not be fulfilled in these situations, and would have nothing to do with the public safety closures.

Additionally, there are sometimes critical needs to close areas for natural resource protection. While Game Management Areas are primarily for hunting purposes, public hunting areas are an overlay on different land designations, such as Forest Reserves, Natural Area Reserves, and Wildlife Sanctuaries that were designated for the purposes of watershed, native ecosystem, and native species protection. Public hunting in these areas is a tool that the Department uses to keep feral animal populations under control. The proposed measure would cripple the Department's ability to meet the primary natural resource protection purposes of those land designations.

There are also public hunting areas and game management areas that are on leased lands, or where the Department has otherwise negotiated public hunting access agreements with other entities, such as the Division of State Parks, the Department of Hawaiian Home Lands, county departments of water supply, the Department of Defense and private landowners. Adding a restriction such as proposed may convince these partners that allowing public hunting on their lands is a liability, determine that hunting is no longer in their best interest, and rescind public access agreements if their autonomy is superseded by the GMAC.

Thus, the Department opposes this bill because it provides the GMAC a far-reaching power to shape the Department's safety and natural resource management projects as well as granting GMAC authority over our partners' lands, which is inappropriate for the following reasons:

- Pursuant to Section 183D-4.5, HRS, the Game Management Advisory Commission (GMAC) was established to serve exclusively in an advisory capacity to the Board of Land and Natural Resources. The section clearly defines the role and responsibilities of the GMAC as well as the required qualifications of the commission members. Currently, the GMAC is comprised of individuals who have interest in hunting non-native game species. As such, they provide advice on hunting and hunting related issues across the State. However, they were not selected for their training or knowledge of public safety, watershed management, endangered species, native forest protection, or general wildlife management practices, which they may or may not coincidentally possess. It is inappropriate to require them to make informed decisions for the Department or the Board about the management of these other public trust resources.

- In 1903, Hawaii's legislature passed a bill creating a Board of Commissioners of Agriculture and Forestry and created a Division of Forestry within it, the first forestry agency established in the United States and their trust territories. The Board and Division were established because nowhere else was the connection between forests and water supplies more apparent. By empowering the GMAC to be the decision-making authority on closures, it elevates hunting to the top priority for the Division of Forestry and Wildlife's (Division) management in any natural area reserve, wildlife sanctuary, forest reserve, restricted watershed, and its partnership lands, and would discourage such public hunting designations. This could contradict the original purpose of the Division and primary purpose and intent of much of the land the Division manages, which has guided it for over a century. It would also conflict with the mandates of other commissions, such as the natural area reserve commission, as well as the primary goals of our watershed partnership alliances.
- If the Department is not allowed to close areas for resource protection, this will lead to plant and animal extinctions, accelerate the loss of native forests, and allow for degradation of our essential watersheds. For example, if a new devastating forest pathogen was discovered and there was a concern that it could be transported by human visitation, and the Board decided that a closure was needed to halt the spread of the pathogen, the Department may have to wait for at least 10 years before being able to close the area and restrict movement of the disease causing agent. The Department would also lose the ability to quickly protect populations of endangered species that could be disturbed or killed by human activity, such as ground-nesting seabirds. As such, the bill would allow an advisory commission the power to prevent the Department from fulfilling its constitutional and statutory duties to protect forests, watersheds, and endangered species.
- The bill would supersede the Department's authority to close areas for emergencies and public safety. As such, the State could be held liable for injury and loss of life.
- The bill would restrict the Department's ability to remove game animals from certain remote and dangerous locations with aerial shooting, forcing the Department to weigh the risk to sending staff into dangerous situations on foot, or letting the ungulates remain and continue to denude and erode our watersheds and mountaintops.

The Department is also concerned with the proposed definition of "cooperative resource management". Natural resource management generally refers to the management of natural resources, such as land, water, soil, plants and animals, with a particular focus on how management affects the quality of life for both present and future generations. By limiting the stakeholders with a "compelling public interest" to those involved in "recreation, hunting or gathering", our most important natural resource management considerations are excluded.

Involvement of public hunters as standard policy for the Department. Seventy-five percent of Division lands are currently open for hunting. The Department continues to explore public hunting opportunities and acquire lands appropriate for such purposes.

The Department has been implementing recommendations of the GMAC, making progress on priorities expressed by a hunter survey conducted this past fiscal year, connecting with hunters via newsletters and meetings, opening up new lands for hunters, and improving access and the overall hunting experience. The administration of a high-quality public hunting program is a high priority for the Department.

Thank you for the opportunity to comment on this measure.

Testimony of The Nature Conservancy of Hawai'i
Opposing Section 3. of HB 1122 Relating to Land Use
House Committee on Water, Land, and Hawaiian Affairs
Wednesday, February 13, 2019, 11:15 AM, Room 325

The Nature Conservancy of Hawai'i is a non-profit conservation organization dedicated to the preservation of the lands and waters upon which all life depends. The Conservancy has helped protect more than 200,000 acres of natural lands in Hawai'i and Palmyra Atoll. We manage 40,000 acres in 13 preserves and work in over 30 coastal communities to help protect the near-shore reefs, waters and fisheries of the main Hawaiian Islands. We forge partnership with government, private parties and communities to protect forests and coral reefs for their ecological values and the many benefits they provide to people.

The Nature Conservancy opposes Section 3. of HB 1122. We have no objection to Sections 1. and 2. relating to cooperative resource management. The Department of Land and Natural (DLNR) resources should, and indeed does, seek a wide range of user, community, cultural, and scientific input and engagement to help inform its management decisions and actions.

Section 3. of the bill, however, unreasonably hinders the DLNR's ability to carry out its responsibility to manage the public trust resources of the State. While Section 3. might appear to simply require thorough analysis before any action is taken to close any hunting area, on closer inspection it's clearly intended to stop any new regulation of these areas. Requiring 10 years of location-scientific scientific data and analysis before the DLNR can take any action to close any hunting area for any period of time is unreasonable. It would likely cost hundreds of thousands of dollars in DLNR staff time and contracted services, which is well beyond the capacity of the Department.

In addition, by requiring the game management advisory commission's "positive recommendation" (i.e., approval) on any closure, Section 3. would vest an inappropriate decision-making authority over government action in an advisory body. Advisory groups of stakeholders, experts and community members provide important knowledge and experience to the DLNR as it carries out its governmental responsibility to care for and promote wise use of Hawai'i's unique and limited natural resources. However, by intention and establishment they are advisory. They are not final decision-making or approving bodies. This is not only the case for the game management advisory commission, but also the Department's endangered species recovery committee, the aha moku advisory committee, the legacy land commission, the natural area reserves system commission, and the forest stewardship advisory committee.

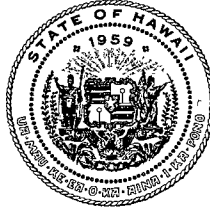
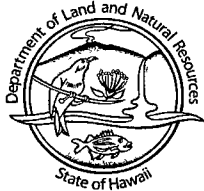
While the Department should and does benefit from the experienced advice of the game management advisory commission and these other advisory bodies, it also draws from the knowledge, training and expertise of its own personnel, academia, and scientific data and analysis, amongst others. No one source of input or expertise has individual approval or veto authority over decisions that must ultimately rest with the Department's leadership and the statutorily established Board of Land and Natural Resources.

We agree that introduced wildlife resources need to be wisely managed both for their benefits and, in some cases, for the risks they pose. Hawai'i has an important history of hunting game mammals for food and recreation that should be perpetuated and even enhanced, but it is a modern history. With the exception of the Hawaiian bat, Hawai'i has no native land mammals. Wild pigs were introduced from Europe and Asia after 1778. The smaller Polynesian pig brought by the first Hawaiians is gone (except on Ni'ihau), crowded out by these later introductions.

Hundreds of thousands of acres can be maintained for managed populations of game and livestock animals, but effective animal control is essential in some areas. A balance can be achieved between game production for recreational and subsistence uses, livestock production, public health, property protection, and conservation of irreplaceable native ecosystems and watersheds.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
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**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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Supplementary Testimony

**In consideration of
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LATE

LATE

The Department of Land and Natural Resources (Department) opposes this bill.

The Department seeks to keep game management areas and public hunting areas open as much as possible for recreation and substance hunting as well as ungulate control statewide.

The governor designated, via executive orders, Forest Reserves, Natural Area Reserves, and Wildlife Sanctuaries, etc. for the specific purposes, such as watershed, native ecosystem, and native wildlife protection. Most public hunting areas are overlays, secondary to the primary objectives of the Governors.

Should the Department lose its flexibility to close public hunting areas as needed, because GMAC disapproved or delayed its approval (GMAC meets 4-6 times a year):

Health and human safety will be at risk:

- in natural disasters - hurricanes, volcanic eruptions, floods, landslides, wildfire, wind-storms, heavy-rain events, high-water conditions, tidal waves...
- during disaster cleanup, work would be hindered and the safety of the hunting public in the area would be at risk
- if potential rock fall or landslides threatens public hunting access or a large hunting area, the state could not close the area affected
- during necessary staff on the ground ungulate control operations
- Emergency search and rescues and law enforcement would be hindered, as hunters pass by

Natural resources will be unprotected:

- When threatened and endangered species are found to be breeding, or otherwise present, in hunting areas, the area can't be closed
- If new or existing pathogen, carried by people, is discovered to seriously threaten endangered species within a hunting area, the area can't be closed, pending the development of preventative measures.

- Ecosystems and watersheds will continue to degrade if adequate ungulate control is not possible within public hunting areas.

State funds and staff time will be wasted by:

- Aerial ungulate control will be impossible
- Thus staff would go on foot for ungulate control into thick vegetation, dangerous terrain and over vast distances, where spotting and pursuing animals on the ground is ineffective at best, when aerial control is proven as fast, cheap, effective, and commonly used by all state wildlife agencies nationwide.

Finally, all cooperative hunting areas will likely be closed, neither the Department nor the land owners will be able to close the hunting area when needed, including:

- Division of State Parks, the Department of Hawaiian Homelands,
- The Department of Defense and
- Private landowners such as Larry Ellison (Lanai's CGMA)

The bottom line is -- If the Department does not have the flexibility to open and close public hunting areas as needed to carry out the Department's mission

“Enhance, protect, conserve and manage Hawaii's unique and limited natural, cultural and historic resources held in public trust for current and future generations of the people of Hawaii nei, and its visitors”

And to assure public safety, public hunting areas will become a liability. This liability will be considered when designating new hunting areas and may require closing existing public hunting areas permanently, if hunting not the primary management goal of the specific area.

Thank you for the opportunity to comment on this measure.